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ADR

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FILED
FEB 25 2014
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Erik Estavillo)
Plaintiff,)
VS.)
Insomniac Games Inc.,)
Sony Computer Entertainment of America,)
Microsoft Corp., Nintendo of America, and)
GameStop Inc.)
Defendants,)

Complaint

Date: Feb. 2nd, 2014

Demands Jury Trial

CV 14-00839

HRL

1. **Jurisdiction:** The counts and charges in this complaint involve the U.S. Constitution and other Federal statutes and laws, or treaties (28 U.S.C. § 1331).
2. **Venue:** The venue of the Northern District Federal Court of California is the appropriate venue because the defendant suffers from a number of debilitating diseases which include Crohn's Disease, Major Depression, Obsessive-Compulsive Disorder, Panic Disorder, and Minor Agoraphobia, stemming from Panic Disorder. The plaintiff cannot travel far often, due to his illnesses, and therefore must rely on the local court for help on these case issues.
3. **Intradistrict Assignment:** This lawsuit should be assigned to the San Jose Division of the court because it was in San Jose in which the violations to the disabled plaintiff occurred.

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1. This first count is against Insomniac Games Inc., charging them with wrong doing as they are closing all servers for all Resistance games, despite Resistance 3 having come out in late 2011 and early 2012. The game is still very relevant with a healthy amount of gamers still playing online; who will now be out of money and "entitled enjoyment" since all the Resistance games will now essentially become void; as where no one can play online anymore. All of these players have already surpassed the "Campaign Mode" or in laymen terms, single player mode. And as it is stated on the game retail boxes for Resistance 1-3, it CLEARLY SAYS ON THE BACK OF THE RETAIL BOXES THAT "ONLINE PLAY AND MULTIPLAYER" WILL/WOULD BE AVAILABLE (WITHOUT AN END DATE POSTED ON THE BOX), AND WAS IMPLIED AS AN ONGOING FEATURE THAT WOULD NOT END. You can clearly understand this if you were to read any of the game retail boxes when you purchase any one of them. They essentially lied to the public on the retail boxes for these games, promoting a feature they are now ceasing; despite being able to obviously afford it given that PlayStation Plus Memberships have greatly increased, providing apt revenue for them to keep up all servers while maintaining a substantial profit.
2. The second count is against Sony Computer Entertainment of America, charging them with wrong doing in the sense that they are the publishers of the Resistance game series and are also the owners. They are highly supportive of the server closures; despite not even in the least printing on the game retail packages that "Servers can/may/are due to close without notice," which they currently do not as of now. Instead, they state it in the EULA, WHICH IS NOT PRINTED ON THE RETAIL BOX. And for the record, very, very few players ever read the EULA of any game they play online.
3. The third count is against SCEA'S PlayStation 4 console, charging them with wrong doing regarding overcharging for their PS4 video gaming console. They are clearly violating the "Cornering the Market" rules within finance with their high price of \$500 for purchase of their gaming console, despite NOT COMING WITH A CAMERA OR QUALITY HEADPHONE SET.
4. The fourth count is against the Microsoft Corporation, charging them with wrong doing in the sense that they are overcharging for their new Xbox One gaming console. They are clearly violating the "Cornering the Market" rules within finance with their high price of \$500 for purchase of their gaming console, despite NOT HAVING ANY KINECT 2.0 GAMES AVAILABLE AT LAUNCH. THOUGH THEY CHARGE YOU FOR THE CAMERA THAT COMES WITH THE SYSTEM.
5. The fifth count is against Nintendo of America, charging them with false advertising, since they heavily advertised the Nintendo Wii U GamePad as a second, invaluable screen to be used in most games; when in fact it isn't. Most games use the second screen just as an alternative to playing on the television set. However, Nintendo marketed the Wii U GamePad as having many alternative

A handwritten signature in black ink, appearing to read "Erin Standish".

uses DURING GAMEPLAY AS A SECOND SCREEN, OFFERING DIFFERENT FEATURES TO ENHANCE GAMEPLAY. So far, the Nintendo Wii U GamePad has only taken advantage of its second screen fully in 5% of all Nintendo Wii U video games; primarily Batman: Arkham City and Splinter Cell: Blacklist.

6. The sixth and last count is against GameStop Inc. and their clear robbery of fellow Developers and Publishers who cannot profit from GameStop's re-buying and re-selling of used games. Developers and Publishers alike can't do anything to recoup money from GameStop, since GameStop is a monopoly with no kind of competition coming from another PURE GAMING RETAIL STORE (BRICK AND MORTAR); hence "Lording it over fellow developers and publishers and 'holding them hostage' to their financial practices and whims." Therefore, an injunction should occur against GameStop from buying and re-selling used games and the injunction should be put forth immediately until GameStop finds a way to administer profits to Developers and Publishers of these used games. Also, another immediate injunction against GameStop should be imposed; stopping GameStop from requiring \$15 to join their rewards program. Instead, the slate should be wiped clean and any current/new memberships should remain free until GameStop can administer profits to fellow Developers and Publishers as is rightly deserved. This injunction should include the GameInformer Magazine from being sold in these stores at the price of \$15 along with membership; until resolutions can be fully found and realized in a court room of law by the Honorable Judge presiding over this case.
7. Furthermore. subpoenas will be issued to the follower individuals: Ceo Ted Price of Insomniac Games and President Jack Tretton of SCEA to answer for the Resistance server closures. Don Mattrick of Microsoft/Zynga and Steve Ballmer of Microsoft will be subpoenaed to answer for the high cost of the Xbox One and "Cornering the Market" rules which they have obviously violated. To President Reggie Fils-Aime of Nintendo for falsely advertising the Wii U GamePad as a device that greatly enhances all gameplay on the Nintendo Wii U. Lastly, President Tony Bartel and CEO J. Paul Raines of GameStop will be subpoenaed in order for them to testify on their business practices (having an unfair monopoly within the gaming market and not sharing profits from used games with fellow Developers and Publishers).
8. A copy of this complaint will be filed in San Jose State Court for those companies which are located in California. Including, Insomniac Games in Burbank, CA and Sony Computer Entertainment of America in Foster City, CA. A federal complaint will be filed in San Jose Federal Court for those companies domestically abroad. Such as GameStop Inc. in Grapevine, TX, and Microsoft Corp. and Nintendo of America in Redmond, Washington.
9. **Prayer for relief:** All I wish for as the plaintiff is that injunctions be immediately enforced against these companies. The first injunction will be to keep Insomniac



Games Inc. and SCEA from closing Resistance servers until the very, very, Honorable Judge hears this case in full. Also, two immediate injunctions against the PS4 and Xbox One gaming consoles should be enforced which will bind and keep each console from being sold in store until they are lowered in price by at least \$100: or as a concession: freely add a second controller to each sale. This action would IMMEDIATELY BENEFIT EVERY GAMER WHO HAS ALREADY PAID TOO MUCH FOR EITHER GAMING SYSTEM. Also, one final injunction against GameStop Inc. should be imposed which will keep them from selling any used games, selling any new memberships, or selling any new GameInformer Magazines, until all court proceedings have taken forth against them and have been resolved in full by the very, very, Honorable Judge who will be presiding over this case. Lastly, the plaintiff wishes to ask the court that any monetary judgments awarded to the plaintiff, be instead given to a charity of the Honorable Judge's Choice.

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